IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

-

WRIT PETITION NO : 26577 of 2001

Between:

M/s Shiva Shirdi Enterprises rep.by
its Proprietrix Smt.N.Vijaya Kumari,
W/o.N.Satyanarayana Murthy, age 32 yrs, Chittoor

..... PETITIONER

AND

1. The Secretary Minister of Environment, Forests and Wild Life
   Government of India, New Delhi
2. The Secretary Forests and Environment Department
   Government A.P., Hyderabad
3. The Director of Mines and Geology B.R.K.R.Bhavan, Hyderabad
4. The Chief Conservator of Forests of A.P., Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ of mandamus declaring the action of the respondents in not extending the benefit of the judgment dt.19/03/2001 of the Hon'ble Supreme Court in SLP.2153/2001 to the petitioner though it is similarly situated as illegal, improper, unjust, arbitrary, contrary to law and further direct the respondents to extend the benefit of judgment of the Hon'ble Supreme Court in SLP.No.2153/2010 to the petitioner as the petitioner is similarly placed, to call for the connected records including the impugned proceedings of R-3 in proceedings No.11245/R-4/2B/98 dated 19-03-2000 and declare the same as illegal, improper and contrary to law.

(Prayer is amended as per Court order dated 23-12-2003 in WPMP.No.33521 of 2003.)

Counsel for the Petitioner: MR.MAHADEVA KANTHRIGALA

Counsel for the Respondent No.1: SC FOR ENVIRONMENT, FORESTS AND WILD LIFE

Counsel for Respondents 2 & 4: GP FOR FORESTS

Counsel for Respondent No.3: MR.G.S.PRAKASH RAO

The Court made the following:

O R D E R:

Heard both sides.

The petitioner herein, who is an applicant for grant of mining lease, filed this writ petition *inter alia* seeking for a mandamus declaring the action of the respondents in not extending the same benefit as granted by the Supreme Court in Special Leave Petition No.21538 of 2001 dated 19-03-2001.

The facts, in brief, are that the petitioner had made an application on 22-06-1995 for grant of quarry lease for black granite in gap area of Kottalam village, Yadamari Mandal in Chittoor District. Whereupon, the Mandal Revenue Officer, Yadamari Mandal had issued a no objection certificate followed by the certificate from the District Forest Officer, Chittoor to the effect that the area applied for by the petitioner is outside the Veerasettipalli Forest Range of Rachur beat and hence, no objection for grant of lease. Accordingly, the third

respondent herein granted lease on 08-07-1997, which was communicated to the petitioner on 16-07-1997 and the petitioner was permitted to commence the lease operations. It is submitted that the petitioner had invested substantial amounts to an extent of five lakhs and also laid a road to an extent of two kilometres from quarry to the main road. However, as per the proceedings dated 06-08-1997, the Assistant Director of Mines and Geology Chittoor suddenly asked the petitioner to stop the operations in pursuance of proceedings issued by the first respondent herein. Challenging the same, the petitioner earlier filed WP.No.24564 of 1997, which was disposed of on
02-04-1998 directing the Central Government to pass appropriate orders. However, as the same was not implemented, the petitioner had filed a contempt case in CC.No.487 of 2000. The main plank of the petitioner's case rests on the ground that in identical situation where an application filed by M/s Thirumala Granites, the matter ultimately went to the Supreme Court and as per orders in Civil Appeal No.2153 of 2001 dated 19-03-2001, it was directed to consider afresh in the event of making fresh application and rejecting the reasons as not in terms of Rule 5(2)(a) to (d) of the Rules. It further observed that the same should be dealt with in accordance with law and no mining operations can be carried out in the reserved forest area without prior permission from the Central Government. Accordingly, the respondents herein re-considered the said application of
M/s Thirumala Granites for the same area. However, though the petitioner stands in the similar circumstances and with the same objections raised earlier, which was stated by the Supreme Court, his case was not being considered. It is further submitted that the petitioner had entered into an agreement on 06-01-1999 for purchasing the land. However, a final sale deed could not possibly be executed since the application was rejected at the instance of
M/s Thirumala Granites. In fact, the said application of
M/s Thirumala Granites was also rejected on the self same lines which led to filing of WP.6355 of 1999 and the same was initially dismissed by this Court, against which an appeal was filed in

W.A.No.1490 of 1999 which was disposed of on 19-04-2000 directing reconsideration of the matter by the Committee constituted by the Central Government and pass orders afresh. However, on further appeal, the Supreme Court of India, in the aforesaid matter, passed the said orders. Therefore, it is the case of the petitioner that his application should also be considered on the same lines and on par with
M/s Thirumala Granites. Hence, this writ petition.

In the counter-affidavit filed by the respondents herein denying the entire allegations and claim made by the petitioner, it is submitted that the petitioner is not entitled to any such relief though admitting the chequered events in the case of M/s Thirumala Granites and further stating that in the event of any such application is forthcoming, the same shall be dealt with in accordance with law.

Having heard on either side and also on perusal of the material on record, the only question that falls for consideration is that as to whether the petitioner can be treated on par with M/s Thirumala Granites for grant of mining lease as sought for. There is no dispute by the respondents to the aforesaid events both in the case of the petitioner and as well as M/s Thirumala Granites and the rejection also stands on the same lines. The reasons as sought to be shown by the respondents herein for non-consideration of the application and rejecting the same even in the case of the petitioner herein, as per orders dated |19-03-2000, virtually run on the same lines. Further, it is also to be noted that the area applied for by the petitioner and also M/s Thirumala Granites is one and the same and the objections also are similar. In view of the same, there cannot be any objection much less a reason to draw any distinction between the petitioner and as well as M/s Thirumala Granites. Any such attempt on the part of the respondents would clearly amount to discrimination. If one i.e.,
M/s Thirumala Granites is entitled to a mining lease, question of rejecting the application of the petitioner, which is on similar lines does not arise and the petitioner cannot be deprived of the similar benefit. Except the reasons, as only found in both the cases, no other

reason or any objection has been raised by the respondents herein for disentitling the petitioner to such lease.

In the circumstances, the writ petition is allowed and the impugned order dated 19-03-2000 is set aside. The respondents are directed to consider the case of the petitioner for grant of mining lease on par with M/s Thirumala Granites and pass appropriate orders in accordance with law. No costs.

_____

29-12-2004.

Lrkm.

That Rule Nisi is made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this **Wednesday,**

The twenty ninth day of December, 2004.

ASST.REGISTRAR

To

1. The Secretary Minister of Environment, Forests and Wild Life Government of India, New Delhi.
2. The Secretary, Forests and Environment Department, Government A.P., Hyderabad
3. The Director of Mines and Geology, B.R.K.R.Bhavan, Hyderabad
4. The Chief Conservator of Forests of A.P., Hyderabad

5. 2CD copies.

6. Two Ccs to the Government Pleader for Forest, High Court of A.P.,

High Court Buildings, Hyderabad (O.U.T).